

CHILD SUPPORT GUIDELINES ISSUE: Child Care Costs

TREATMENT IN IOWA GUIDELINES

Iowa is one of a few states that subtract work-related child care expenses from the parent's income in the determination of the child support order.

[Rule 9.5] Net monthly Income. In the guidelines the term "net monthly income" means gross monthly income less deduction for the following.

9.5(11) Actual child care expense while custodial parent is employed, less the appropriate income tax credit.

CHILD CARE STATISTICS

Child care can be a significant issue for working families. The National Association of Child Care Resource and Referral Agencies publishes many informative statistics on this issue specific to Iowa¹. There are over 400,000 Iowa children under the age of 11 years old. The norm is that children under age 13 should be in care, rather than left unsupervised. About 270,000 Iowa mothers with children under 18 years old work. This includes over 100,000 Iowa mothers with children under six years old. The costs of full-time child care averages about \$5,000 to \$7,000 per year. The costs are more for infants and center-based care. Child care expenses can be a significant work expense for custodial parents. The costs of infant care at a center amounts to 31 percent of the median income of Iowa single-parent families. Only about 10,000 Iowa families receive subsidized child care.

TREATMENT IN OTHER STATES

- About 5 states subtract child care costs from income.
- About 33 states add the prorated amount of child care costs to base support.
- Utah and California add 50% of child care costs to base support.
- Nine states allow for a deviation
- 2 states do not address child care costs.

Below, is Colorado's adjustment, which is typical of state guidelines that prorate child care expenses, then adjusts the final support award to include the child care expenses.

(9) Adjustments for child care costs. (a) Net child care costs incurred on behalf of the children due to employment or job search or the education of either parent shall be added to the basic obligation and shall be divided between the parents in proportion to their adjusted gross incomes.

¹ NACCRRRA and Iowa State Network (February 2007) *2007 Child Care in the State of Iowa*. Available at <http://www.naccrrra.org/>.

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(b) Child care costs shall not exceed the level required to provide quality care from a licensed source for the children. The value of the federal income tax credit for child care shall be subtracted from actual costs to arrive at a figure for net child care costs.

Examples from other state guidelines are appended to this briefing paper.

- South Carolina provides a simplified formula for the federal child care tax credit.
- South Dakota provides that the child care order is separate from the child support order.
- Minnesota's provision, albeit long, is interesting because it addresses child care subsidies, fluctuating child care costs and change in providers. In addition, Minnesota's low-income adjustment is included because it provides a pecking order to the reduction of the support order for obligated parents whose income is near poverty. The order is first reduced by the child's medical expenses, then child care expenses and finally, the basic obligation is reduced.

Comparison of Child Care Adjustment Methods

Exhibit I examines the difference between (i) subtracting child care expenses from income; and, (ii) prorating them between the parents, then adding it to basic support. The difference is similar to the issue of whether the health insurance premium should be subtracted or prorated. The scenarios rely on the current Iowa charts, but the issue would still exist with pure Income Shares charts.

Comparison of Child Care Adjustments: One Child				
	Order Amount		Noncustodial Parent's Share of Child Care Costs	
	<i>Subtract Income (Iowa's Current Method)</i>	<i>Prorate Child Care Expenses & Add-on to Basic Obligation</i>	<i>Subtract Income (Iowa's Current Method)</i>	<i>Prorate Child Care Expenses & Add-on to Basic Obligation</i>
Case 1: Equal Income NCP Monthly Net Income = \$2,000 CP Monthly Net Income = \$2,000 NCP share of combined income = 50%				
• Child Care Costs = \$0	\$450	\$450	N.A	N.A
• Child Care Costs = \$100	\$450	\$500	0%	50%
• Child Care Costs = \$200	\$450	\$550	0%	50%
• Child Care Costs = \$300	\$450	\$600	0%	50%
Case 2: Median Income NCP Monthly Net Income = \$2,000 CP Monthly Net Income = \$1,400 NCP share of combined income = 59%				
• Child Care Costs = \$0	\$450	\$450	N.A	N.A
• Child Care Costs = \$100	\$450	\$509	0%	59%
• Child Care Costs = \$200	\$450	\$568	0%	59%
• Child Care Costs = \$300	\$450	\$627	0%	59%

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Comparison of Child Care Adjustments: One Child				
	Order Amount		Noncustodial Parent's Share of Child Care Costs	
	<i>Subtract Income (Iowa's Current Method)</i>	<i>Prorate Child Care Expenses & Add-on to Basic Obligation</i>	<i>Subtract Income (Iowa's Current Method)</i>	<i>Prorate Child Care Expenses & Add-on to Basic Obligation</i>
Case 4: High Income NCP Monthly Net Income = \$5,000 CP Monthly Net Income = \$3,500 NCP share of combined income = 59%				
• Child Care Costs = \$0	\$860	\$ 860	N.A.	N.A.
• Child Care Costs = \$100	\$865	\$ 919	5%	59%
• Child Care Costs = \$200	\$870	\$ 978	5%	59%
• Child Care Costs = \$300	\$875	\$1,037	5%	59%
• Child Care Costs = \$400	\$880	\$1,096	5%	59%
• Child Care Costs = \$500	\$885	\$1,155	5%	59%
Case 5: CP is High Earner NCP Monthly Net Income = \$3,500 CP Monthly Net Income = \$5,000 NCP share of combined income = 41%				
• Child Care Costs = \$0	\$585	\$585	N.A.	N.A.
• Child Care Costs = \$100	\$588	\$626	3.5%	41%
• Child Care Costs = \$200	\$592	\$667	3.5%	41%
• Child Care Costs = \$300	\$595	\$708	3.5%	41%
• Child Care Costs = \$400	\$599	\$749	3.5%	41%
• Child Care Costs = \$500	\$602	\$790	3.5%	41%

Changes to Guidelines to Accommodate Prorating Child Care Costs

One justified concern would be the changes needed to the guidelines to accommodate prorating child care costs. The needed changes would be similar to those needed to change the treatment of the health insurance premium. This includes:

- Striking paragraph 9.5.11
- Adding a paragraph similar to Colorado's provision, it would make sense to place the new paragraph next to the revised health insurance provision
- Changes to the worksheets, specifically
 - Moving the line for child care costs below/above line for health insurance costs, which would also be moved to Section III of the Sheet 1 (Calculation of the Guideline Amount of Support). Note that switching to Pure Income Shares will already require changes to Section III.
 - Adding another line or two to Section III for the prorating and adjustment (this could be done separately for child care and health insurance or together).

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APPENDIX: EXAMPLES FROM OTHER STATES

SOUTH CAROLINA (3.8 Child Care Costs)

The cost of day care the parent incurs due to employment or the search for employment, net of the federal income tax credit for such day care, is to be added to the basic obligation. This is to encourage parents to work and generate income for themselves as well as their children. However, day care costs must be reasonable, not to exceed the level required to provide high quality care for children from a licensed provider.

As custodial parents may be eligible for qualified tax credits, the actual day care expenses should be adjusted to recognize this credit. This adjustment may take place in two ways. In cases where the custodial parent's gross income exceeds the threshold listed below, the actual or allowed day care costs is multiplied by .75 to arrive at the adjusted amount to enter on the appropriate line 6.2.

	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
Custodial Parent Monthly Income	\$1,950	\$2,300	\$2,450	\$2,600	\$2,850	\$3,100

The other method would be to take the actual costs and subtract the actual value of the federal tax credit such as determined by the last filed IRS Form 2441. This adjusted amount would then be entered on line 6.c.

SOUTH DAKOTA 25-7-6.18.

Order allocating child care expenses. The court may enter an order allocating the reasonable child care expenses for the child, which are due to employment of either parent, job search of either parent, or the training or education of either parent necessary to obtain a job or enhance earning potential. The court may consider whether the federal child care tax credit for such minor child is available as a benefit to the custodial parent. If the federal child care tax credit is available to the custodial parent, it shall be calculated at twenty-five percent of the eligible expense.

MINNESOTA

518A.40 CHILD CARE SUPPORT.

Subdivision 1. Child care costs. Unless otherwise agreed to by the parties and approved by the court, the court must order that work-related or education-related child care costs of joint children be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly PICS. Child care costs shall be adjusted by the amount of the estimated federal and state child care credit payable on behalf of a joint child. The Department of Human Services shall develop tables to calculate the applicable credit based upon the custodial parent's PICS. Subd. 2. Low-income obligor. (a) If the obligor's PICS meets the income eligibility requirements for child care assistance under the basic sliding fee program under chapter 119B, the court must order the obligor to pay the lesser of the following amounts:

(1) the amount of the obligor's monthly co-payment for child care assistance under the basic sliding fee schedule established by the commissioner of education under chapter 119B, based on an obligor's monthly PICS and the size of the obligor's household provided that the obligee is actually receiving child care assistance under the basic sliding fee program. For purposes of this subdivision, the obligor's household includes the obligor and the number of joint children for whom child support is being ordered; or (2) the amount of the obligor's child care obligation under subdivision 1. (b) The commissioner of human services must publish a table with the child care assistance

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basic sliding fee amounts and update the table for changes to the basic sliding fee schedule by July 1 of each year. Subd. 3. Determining costs. (a) The court must require verification of employment or school attendance and documentation of child care expenses from the obligee and the public authority, if applicable. (b) If child care expenses fluctuate during the year because of the obligee's seasonal employment or school attendance or extended periods of parenting time with the obligor, the court must determine child care expenses based on an average monthly cost. (c) The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section [518A.515](#).

(d) The court may allow the parent with whom the joint child does not reside to care for the joint child while the parent with whom the joint child resides is working or attending school, as provided in section [518.175, subdivision 8](#). Allowing the parent with whom the joint child does not reside to care for the joint child under section [518.175, subdivision 8](#), is not a reason to deviate from the guidelines.

Subd. 4. Change in child care. (a) When a court order provides for child care expenses and the public authority provides child support enforcement services, the public authority must suspend collecting the amount allocated for child care expenses when: (1) either party informs the public authority that no child care costs are being incurred; and

(2) the public authority verifies the accuracy of the information with the other party. The public authority will resume collecting child care expenses when either party provides information that child care costs have resumed

(b) If the parties provide conflicting information to the public authority regarding whether child care expenses are being incurred, the public authority will continue or resume collecting child care expenses. Either party, by motion to the court, may challenge the suspension or resumption of the collection of child care expenses. If the public authority suspends collection activities for the amount allocated for child care expenses, all other provisions of the court order remain in effect.

(c) In cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section [518A.39](#).

History: 2005 c 164 s 23,29; 1Sp2005 c 7 s 28; 2006 c 280 s 38,39

518A.42 ABILITY TO PAY; SELF-SUPPORT ADJUSTMENT.

Subdivision 1. Ability to pay. (a) It is a rebuttable presumption that a child support order should not exceed the obligor's ability to pay. To determine the amount of child support the obligor has the ability to pay, the court shall follow the procedure set out in this section. (b) The court shall calculate the obligor's income available for support by subtracting a monthly self-support reserve equal to 120 percent of the federal poverty guidelines for one person from the obligor's gross income. If the obligor's income available for support calculated under this paragraph is equal to or greater than the obligor's support obligation calculated under section

518A.34, the court shall order child support under section 518A.34.

(c) If the obligor's income available for support calculated under paragraph (b) is more than the minimum support amount under subdivision 2, but less than the guideline amount under section 518A.34, then the court shall apply a reduction to the child support obligation in the following order, until the support order is equal to the obligor's income available for support:

(1) medical support obligation;

(2) child care support obligation; and

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(3) basic support obligation.

(d) If the obligor's income available for support calculated under paragraph (b) is equal to or less than the minimum support amount under subdivision 2 or if the obligor's gross income is less than 120 percent of the federal poverty guidelines for one person, the minimum support amount under subdivision 2 applies.

Subd. 2. Minimum basic support amount. (a) If the basic support amount applies, the court must order the following amount as the minimum basic support obligation: (1) for one or two children, the obligor's basic support obligation is \$50 per month; (2) for three or four children, the obligor's basic support obligation is \$75 per month; and (3) for five or more children, the obligor's basic support obligation is \$100 per month.

(b) If the court orders the obligor to pay the minimum basic support amount under this subdivision, the obligor is presumed unable to pay child care support and medical support. If the court finds the obligor receives no income and completely lacks the ability to earn income, the minimum basic support amount under this subdivision does not apply.

Subd. 3. Exception. This section does not apply to an obligor who is incarcerated. History: 2005 c 164 s 25,29; 1Sp2005 c 7 s 26,28; 2006 c 280 s 41